THE COURTS.

Suit Against Ex-Collector Grinnell-Charge Conspiracy to Defraud the Revenue-Openng of Streets Suit-Stock Companies' Sub-

scription Liability - A Breach of Promise Case-Alloged Fraudulent Lease - Cotton and Cigars . Mixed Up-Decisions.

UN.TED STATES CIRCUIT COURT. Suit Against Collector Grinnell.

Il Collector of the Port -This case was re In the HERALD of yesterday. It is an action the plaintiffs on importations of hoop cut to lengths and punched ready for The real question to be decided is hoop fron cut to lengths and ed ready for use is a raw or a manufactured under the tariff act of 1864, and whether it is part of the plaintiffs a case was cited, that.

United States against Leavit, in which Dani part of the plaintiffs a case was cited, that of United States against Leavitt, in which Daniel beter was for the defence. Leavitt was a dealer lead. He imported into this country .00 pounds of lead in the shape of busts Napoleon. Under the tartif act of 1832 was claimed that although it was in the defendant intended to evade the revenue , the busts were works of art, and not lead in a, bars or sheets, and the jury brought in a dict that they were works of art and not liable to iduty of three cents per pound. He evidence and arguments closed yesterday: Lafter the Judge had charged the jury he adried the court, directing the jury to bring in a led verdict this morning.

UNITED STATES COMMISSIONERS' COURT. Charge of Conspiring to Defraud the

Before Commissioner Osborn.

do and William H. McCrum.-The defendant charged with conspiring to defraud the revenue rday. Case is an inspector of customs rday morning, when the matter was called

Mr. Erastus C. Benedict appeared as counsel for chado, who was also in attendance, having been aght down to the court room by Deputy Marshal

he Commissioner—Mr. Benedict, when do you mt an examination in this case?

ir. Benedict—I have had no time to confer with, Machado.

The Commissioner—I only fixed the examination

he Commissioner—I will have been cleeven o'clock to-day formally.

If. Benedict—I want time for an examination. u may have grounds of suspiction against Mr. Madod, and it may turn out you have not.

He Commissioner—I will fix the examination for Benedict-I would prefer some day next he Commissioner - I desire that the examination

lock next Friday.

ir. Benedict—I may not be able to come then.
the Commissioner—If not you can apply for

the Commissioner—If not you can apply to the theorement. The examination was then adjourned to Friday, a Machado, who gave ball for his appearance, in left the court room. The court room subsequently the defendant, Case, who is out on it, came into court, and was informed that the intry was adjourned until the time stated above. Crum is still in prison. He was not present on the Commissioner adjourned the proceedings.

SUPREME COURT-SENERAL TERM. sership of Materials of the Bulldings in

Opening Streets.
fore Judges Ingraham, Cardozo and Barnard.

atharine A. Schuchard vs. The Mayor, &c.—This be recollected as a suit, or rather one of several similar character, brought against the city to over the value of the materials of the buildings own in the extension of Church street. Judge zo, before whom the suit was originally ught, dismissed the complaint. The Court reat be final and conclusive as well appeared as upon the owners, lessees and person ed in the lands, and upon all other person yet. The report is confirmed on the application of the defendants, and its confirmation is the defendants. sive on them. The demurrer is therefore not ken." Judge Barnard dissented from this sion, and the case is ordered to the second de-

Members of Stock Companies.

president of a stock company, and he brought present action against the defendant, a member he company, to recover for arrears of subscriphe company, to recover for arrears of subscriph. A referee, before whom the case was tried,
missed the complaint, on the ground that there
no cause of action. The defence was that the
modant could not be sued for a liability to the
collation. The Court reversed the decision of the
ree, holding that, under the articles of the assotion and the statute, an action may be maintained
inst an association to recover an indebtedness
as an assessment from him on his stock.

Decisions. and Cook vs. Martin Knafe et al.—Judgment re sed and new trial ordered, costs to abide the nt. Opinion by presiding Justice. mothy Van Allen vs. The American National

k .- Judgment affirmed, with costs. Opinion by **Esiding Justice.

**Isiding E. Quentiti...

**Isiding E. Q

Netices to the Bar.
dered—A new calendar will be made out for the
eral Term in June. Notes of issue must be filed
the calendar, specifying the name of the judge
are whom the case was tried, if one of the judges re whom the case was tried, if one of the judges he General Term. No cause will be placed on calendar unless a note of issue is filed with the k ten days before the first day of June term. he justices of the General Term of the Supremert do hereby designate the times and places for ling the General Terms of the said court in the department as follows:—On the first Monday anuary, April, June and November, in the years and 1872, at the Court House in the city of New E.

D. P. INGRAHAM, P. J.,
ALBERT CARDOZO,
GEORGE G. BARNARD.

oellfelfer vs. Fanny Bier .- Motion granted.

ancisos Fesser vs. Jeremiah Loder,tied for second Friday.
ster vs. Jacoby et al.—Motion denied.
ink of British North America vs. James
— Motion granted.
yu et al. vs. Pardy.— Motion denied.
inderpoet, Receiver, vs. Whitaker.—
tied.

nderpoel, Receiver, vs. Arnoback.—Same. aith vs. Churchill.—Motion denied, ten dollars

uth vs. Churchill.—Motion denied, ten dollars to abide event.

ment et al. vs. Ross.—Motion granted.

mucell et al. vs. Heuritt.—Same.
idsail vs. Bridsail.—Same.
ihe Matter of the Petition of Henry J. Nazro
i.—Motion denied, with ten dollars costs.

arsey vs. New Jersey West Line Rattroad Comnes vs. Sayvard.—Motion denied.
nes vs. Mulcare.—Motion granted for Special

only to recover on guaranty notes. The nation is for \$1,750 on a guaranty note by the detendant, with other gentlemen, to et policy holders. The company islied in 1853, year later assessments were made at soventy er cent on their notes to pay the policy hold-fine defendant pleaded the statute of limitathe case is still on.

of promise of marriage and seduction, the full par-ticulars of which save already been published, was brought yesterday to a trial. She claims \$5,000 dam-ages. The alleged seduction occurred nearly three years ago, and the case has frequently been before the court on motions and counter-motions. The defendant denies ever having promised to marry the plaintiff. There was considerable teatmony taken, but it was the 'old, old story' of betrayed confidence on her part and positive denial of dereliction on his part, he claiming to b; the one seduced. The jury, after a brief absence, rendered a verdict of \$3,000 for the plaintiff.

SUPERIOR COURT-SPECIAL TERM. Decisions.

By Judge McCunn. Mary S. Dickey vs. Moritz Dinkelspiel. -0: er granted.

Anna Nirshmon vs Jonathan Friedmin -Same James Duff vs. Benjamin W. Knig et al.—Same. William H. Whinsier vs. Benjamin W. King.

Same.

The Delaware, Lackawanna and Western Ratt-road Company vs. Henry E. Brown et al.—Reference ordered. ordered.

By Judge Spencer.

John Gray et al., vs. The Scerling Fire Insurance Company.—Reference ordered.

By Judge Jones.

Maynard E. Carrere vs. Paul Spofford.—Order

COMMON PLEAS-TRIAL TERM-PART I.

An Alleged Frauduleut Lease-Insanity and Alcohol. Before Judge Loew.

ant rs. Browning.-This is an action brought to set aside a lease, charged to have been obtained from the plaintiff by fraud. Joseph R Stuyvesant, the plaintiff, a gentleman about sixty years of age, is and has been for years an invalid, suffering from rheumatic gout. This and a little spirituous indulgence, it is charged, has led to softening of the brain and imbecility. While in this condition, in October, 1868, his brother-in-law, Joseph G. Browning; Jacob L. Moore and two attorneys secured from him his signature to a lease of the property known as Allemania Hall, on Third avenue, near Sixteenth street, for eight years from 1868, at \$6,000 a year, Mr. Stuyvesant to pay all taxes, assessments and issurance, amounting to \$3,000, thus leaving an annual income of only \$3,000 from property now renting at \$17,000. This lease, it is charged, is a gross fraud on the plaintiff, and was obtained from him while in an imbecile condition. Mr. Stuyvesant was offered as a witness in his own behalf, but defendants objected to his testimony, on the ground that the plaintiff's counsel, in his opening, admitted him to be insane. The Court sustained the objection, and Mr. Stuyvesant's testimony was excluded. Case still on. years of age, is and has been for years an invalid

COMMON PLEAS-SPECIAL TERM. Decisions. By Judge Joseph F. Daty.

Mooney vs. The Central Park, North and East liver Railroad Company.-Motion denied. Woolf vs. McMahon. -See decision with clerk.

By Judge Larremore.

Berger vs. Thorston.—Motion granted.

By Judge Loew.

Powert vs Godd/rey.—Judgment for plaintiff.

MARIKE COURT. Cotton and Cigare Mixed Up.

Before Judge Shea. Bischoff vs. Kuhlmann.—The business of the daintiff was that of a shipping clerk in cotton uses, but he also carried on a cigar store on the Bowery, in charge of an agent. The defendant was also in this latter business, and having had dealings with plaintiff at various times, had a balance realso in this latter business, and having had dealings with plaintiff at various times, had a balance remaining due him, which, he says, he tried unsuccessfully to obtain; and tinally ascertaining, on the store fanuary last, that plaintiff had not been to the store for two weeks, finding his residence closed and being abe to get no information of his wherea abouts from his relatives, he became convinced that the plaintiff had absconded, and fearing that other creditors might come in with the Sheriff and close out the store, he proposed to the party in charge to sell or turn over to him some along consented to and the goods removed. But defendant testifies further that on finding that he could not legally stamp the cigars, as that must be done by plaintiff, he returned the goods to plaintiff aplace. Plaintiff testified to the value of the goods being \$140; explained his absence from the Bowery store by a rush of business in cotton down town, and brought witnesses to prove that he had been constantly down there and in the city for two months prior to January 1. The Court charged the jury that if the goods were removed by detendant without plaintiffs consent, even though the agent joined in the act of removal, it was a trespass, and that not only did detendant's spreading a report that the plaintiff had absconded render him liable to be assessed in damages, but that his repetition of it here in court and in the papers aggravated these damages, and that the return of the property could only be taken in mitigation of damages. Verdict for plaintiff of \$520.

By Judge Joachimsen. Machado vs. Rapp, Parmiee vs. McCalden, Price vs. Davis, Saltonstall vs. Openshaw. - Dismissed. Brown vs. Rouse.-Judgment for plaintiffs, \$643 31 and costs.

hers vs. Schoenbe Weiler and Others vs. Schoenberg and Others.—
Verdict for de endants.

Wehle vs. Pearl.—Judgment in favor of plaintiff for fifty-five dollars and costs.

C. C. Wilson et al. vs. S. Krotoshiner.—Judgment for plaintiff for \$391.36 and costs, with twenty-five dollars out to allow access.

ollars extra allowance.

Fey vs. Garrey.—Attachment vacated, plaintiff being an infant and no guardian being appointed.

Joseph Kopetzky vs. Michael O. Hea et al.—Decision reserved.

Bracker vs. Coughlin.—Argued and decision re-

served.

Leopo'a vs. Strouse.—Argued and decision reserved.

COURT OF SPECIAL SESSIONS.

Military Marvel-An Officer from West Point Falsely Charged with Petry Theft-Members of the Bar as Swearists.

Before Judge Shandley.
Patrick Reilly, a military officer at West Point, was charged yesterday morning by James Ennis, a liquor dealer at No. 608 Grand street, with taking twentyfive dollars from the pocket of a vest hanging in one of the rooms in the house. The defendant was a tall, gentlemanly looking man, with a good tempered face, and presented an appearance the reverse of that which usually accompanies vice. His wife, a neat-looking, well-dressed lady, was in court, and both the parties appeared to refute the charge upon both the parties appeared to refute the charge upon their features. Everything connected with them appeared respectable. On Saturday last Reilly came on from West Point to this city and stepped into the barroom kept by the complainant to get a glass of ALERT CARDOO, GEORGE 6. BAINARD.

SUPERE COURT—CHAMSERS.

Decisions.

By Judge ingranam.

By Judge ingrana liquor and write a letter. Having a desire to visit some of his friends in company with his wife he sent for her to meet him there

ther plausibility he said he could not see how the decendant had any money, because he did not exhibit it to him when paying for his glass of drink; but to prove that he had solen the twenty-five doilars he said that when he met Redily he had a full suit of new clothing and thirteen dollars in his pocket. This, he inferred, was done with twenty-five doilars. He must be sadly ignorant of the cost of black doeskin, fi, indeed, this wholesale awearist ever owned such an article.

Judge Shandley next heard the statement of Mrs. Redily and her husband, and so concise were their remarks that he wisely dismissed the complaint and acquitted the man, who left the court with his wife leaning on his arm.

COMMISSION OF APPEALS.

The calendar of the Commission of Appeals for Wednesday, May 17, is as follows:—Nos. 129, 130, 130, 381, 248, 123, 124, 137, 138, 139, 141, 142, 109 and 112.

BROOKLYN COURT CALENDAR.

City Courr-Parts 1 and 2.-Nos. 63, 93, 96, 104, 129, 33, 68, 69, 103, 121, 141, 162, 164, 98, 41.

THE ERIE RAILWAY WAR

The Battle Still Going On, but the Fire Some what Weaker Than Usual.

The reference in regard to 60,054 shares of Eric stock claimed by Heath and Raphael, the English shareholders, to be their property, was resumed yes tenday before Mr. Kenneth G. White, the Master. Mr. Southmayd appeared as counsel for Heath and Raphael, and Mr. Lane, Mr. Morgan and Mr. Beach for the Erie Company.

JAY GOULD AGAIN ON THE STAND.

Mr. Jay Gould was further examined by Mr. South

mayd:—
Q. How long a time clapsed between the making out of the convertible bond for \$1,000,000 and the conversion of the same into stock? A. The same day: I became the owner of the bond: I bought i from the company at the market price of the stock into which it was to be converted, the same as the other bond for \$2,000,000; I paid \$50,000 and \$50,000

on account of it in January.

Q. What had you paid on account of it before it was converted into stock? A. My recollection is that J paid something on account of the bond, but it is not entered in the book; I think I paid something on the 12th, but there is nothing entered unti the 14th of January; there was nothing paid on the bond until it was actually bond, so I think; I was advancing money from day to day to the company, and I took these bonds in part payment for my advances; I had become owner of this bond under a bargain with Fisk and Lane; I was authorized by the resolution of the board to sell the stock.
Q. But not to yourself? A. The bargain was the

I was to buy the stock at the market price, and it there was an excess I should return it to the com

Q. How much money did you pay for that be before the 12th day of January? A. At three different dates—\$50,000, \$00,000, \$100,000—and on the 7th of February \$2,965; if I wanted to know what the company owed me! would strike a balance; there was a separate loan account between me and the company; i paid to the company on account of this bond, after it was cancelled and converted into stock, the sum showed as the price of the bond.

Q. were not these convertible bonds—one for \$1,000,000 and one for \$2,000,000—made for the purpose of being converted into stock with the intent that at the time they should be converted into stock?

A. Yes. They were not made with the intent that at the time they should be converted into stock?

A. Yes. They were not made with the intent of the set they should be converted into stock?

A. Yes. They were not made with the intent of the set they should shares, and receipted for them; I gave them to Mr. Willard, and delivered them to him as so much stock; five thousand of these shares were put in the name, and there was a blank power of attorney on the back of the certificates were acting as brokers; Titus, Willard, Martin & Beach, and William Heath & Co. had certificates in their names; they were acting for me as brokers; as to the \$6,000,000 of stock in 1869, that stock was issued, but the narrow guage, proposed in connection therewith, was never carried out; I should think half of the 10,000 shares were sold soon after they were issued; the lact of the issue of this bond for \$1,000,000 and the board at the same time; I think I stated the affair informally to the meeting of the board previous to the board at the same time; I think I stated the affair informally to the meeting of the board previous of the board at the same time; I think I stated the affair informally to the meeting of the board previous of the board at the same time; I think I stated the affair informally to the meeting of the board at the same time; I think I stated the affair informally to the meeting of the board previous of the stock in guestion. Out of the before the 12th day of January? A. At three different dates—\$50,000, \$00,000, \$100,000—and on the 7th

book shows it was on the 14th of January, 1871; Mr. Gould's statement, that the return was made on the 2sth of December previously, must be a mistake; as far ag I know the sum of \$60,000 received from Willard, Martin & Beach in December, and the various other sums received during that and the ensuing months, were considered as current loan, and I was unaware that they had any relation with convertible bonds; moneys received from Mr. Gould during that period were not entered as advances on convertible bonds and no person in my department knew anything regarding them.

The inquiry at this stage was adjourned to Thurs

garding them.

The inquiry at this stage was adjourned to Thurs day, the 25th, at one o clock. The point sought to be brought out by the examination of Mr. Gouly resterday was that the issue of the convertible bonds in question was wholly and entirely tilegal.

PRESENTATION OF A UNITED STATES COURT BY A UNITED

[From the Rochester Union, May 15.]

On Saturday afternoon the Grand Jury of the United States Court sitting here adopted and presented to the court a series of resolutions condemning in decided language the proceedings of some of the commissioners and other inferior officers of the courts, and persons connected with the federal denartments who have been and still are engaged in the persecution of citizens by taking advantage of technical violations of the laws. It is hoped this expression of the Grand Jury will have a satutary effect on those who are rebuked. The jury and court have been consistent in their action by throwing out such complaints as they deemed trivial.

The following was reported by the committee of the jury and unanimously adopted by the whole body:—

the jury and unanimously adopted by the who body:

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK,
IN GRAND JUNY ROOM,
IN GRAND JUNY ROOM,
Whereas we have been duly brought together to serve of Grand Jurois for the lighest jury court in the Union, an baving completed our isbors, deem it a duty we owe to ill public to allude to a few of the evils of this court, disclaining any intention of reflecting topon the Court proper, who we know to be in full sympathy with us, and for whom whare the highest respect.

ing any intention of reflecting upon the Court proper, whom we know to be in full sympathy with us, and for whom we know to be in full sympathy with us, and for whom we have the highest respect.

First—The court is necessarily very expensive at best, to litigate for legal rights, insamuch as the venue is anywhere within a radius of 200 miles from the centre of the large State of New York; thus often men are compelled to travel 600 miles from home for trial. The venue of all actions is of the greatest importance to both parties on the trial of the actions with reference to economy, convenience, &c. The bare idea of being brought into this court surgests the going out a bankrupt to every one with limited solvent means; therefore, whenever there is concurrent jurishetion in this and in our State courts, actions should always be brought in the later, unless upon good cause shown.

Second—Many of the cases brought before us more fifty being the ten brought there, only it paid the complainmants better to thrust them before this court. The Grand Jury being the crimical gateway to the courts, we hope we have sent none unjustly through it, while we have the satisfaction of knowing that we have quashed the indetiment of some well "put by jobs," and would more willingly have presented some of the winnesses than the accused, had they been charged with the oftence, judging by the apparent motives of both. We desire to commend those officials whose honest statements enabled us to correctly comprehend our duty, thus doing even justice to the government as well as to the accused.

Third—We have had presented for our action quite too

thus doing even justice to the government as well as to the accused.

Third-We have had presented for our action quite too many flimsy, merely technical violations of the law, where, it the authorities that sent them before un are held to their riling at the great day of reckoning, we fear they would be about of their power for the abuse of it. The people wish to look up to the government for protection and not for perse cutton. We prefer to believe our fellow men are better rather than worse, thus they are, while we have endeavored to ind out in the cases before us just what they were.

Finith.—For illegal voting the proper place for correction is in our Stute courts. Mostlof these cases would never hav occurred without the greater moral crime of orthery to it dues them. We trust ere long to see both of these criminal "go up" together. However, indictment followed, where the proof's warranted it, because it was the right of the Court to claim it.

group" together. However, indictment followed, where the proofs warranted it, because it was the right of the Court to claim it.

Firth—From the nature of many of the cases brought before this jury it is evident that the Commissioners of the United States Circuit and District Courts in this district, and more especially to this locality, have been led to issue warrants upon the affidavits of irresponsible parties, which practice, in too many instances, not only creates an unnecessary expense but works great injustice and hardship to innocent parties, who are his put to the accessity of idefending themselves from chaffes brought or worked up by deputy. United States marshale, as this jury are compelled to believe, for the sake of the fees, a mere technical violation of the law sufficing to create a serious charge against the integrity of men who are entirely innocent of any criminal intent Therefore we do most earneally and respectfully ask the Court to use its influence to have the criticomplianed of corrected, and would suggest a reduction in the runner of United States commissioners, and would further arge an investigation Into the cause and e tent of the gross injustice to our citizens, caused, as we fear, by the cupidity of some of these officers.

Sinth—In conclusion, as loyal men and as citizens of a loyal State, we have endeavored not to lose sight of the objects and anims of our good and kind government, and to profoundly respect it and its authority, and to give it strength to sheld and protect us all by protecting it in its rights, however minute, where its principles were involved, instead of the spiene or interests of the accessers. Constraining its policy in be liberal and just, we have indicated only on clear proofs.

The Difficulties of Obtaining Qualifled Jurymen.

> Interesting Legal Points Raised by Counsel.

SECOND DAY'S PROCEEDINGS

Yesterday, at ten o'clock precisely, Judge Car dozo took his seat on the bench, and five minutes later four of the accepted jury of the previous day marched in, the rear brought up by Sheriff Brennan, who has been in attendance since the first day's proceedings. At this time there were in the court room only about seventy-five persons—
jurors, reporters and counsel; but one by one new
comers commenced to enter, and gradually the vacant space was occupied. The fifth and last juror
entered at ten minutes after ten, thus making the set complete—the five that were sworn in yesterday.

Accommodations were provided at the Astor House last night, by the Court, for the benefit of the jury, so as to prevent any opportunity of conversing with outsiders in regard to the MERITS AND PROBABILITIES OF THE TRIAL,

and to enable these five men to keep their minds uncontaminated and above bias.

THE PRISONES. Poster entered at the usual tyme, twenty minute past ten, and took his accustomed place beside his counsel. It was noticeable that on this occasion he did not wear the "bracelets," but had his nands perfectly free. As on former days, he wore that same stolid look of indifference—not brutal indifference, but an appearance as if he failed to realize fully the awful situation in which he stood.

Judge Stuart and District Attorney Garvin er tered the court room at half-past ten, and shortly after the Court commanded silence and the roll call of jurors was heard, the solitary five answering

vigorously as their names were called.

The first juror summoned was Mr. Hudson Cary, of 46 Catharine street. Mr. Cary was unfortu enough to have

EXPRESSED A DECIDED OFINION in the case, so consequently had to forego the honor of serving as a juryman. Several others were rejected, having formed opinions.

Mr. Adam Muir had read of the murder, but had

no opinion—only an impression.

At this point Messrs, Hendrickson and Morton—the two first jurors sworn—were appointed triers under the rule of favor and took the oath.

under the rule of favor and took the oath.

The reason of a juryman's being competent while having an impressio 1 on his mind as to the guilt or innocence of the accused was briefly argued by respective counsel, and the triers decided it in favor of the prosecution. Mr. Cary thought he could sit impartially on a jury and give a verdict in accordance with the evidence, notwithstanding he had this impression on his mind. He had heard conversations in reference to the murder; he had no impression in regard to Mr. Foster; it was in reference to the party who committed the deed, whoever that might be; he had no impression either for or against the prisoner; his mind was perfectly free in this respect.

Judge Stuart wanted the counsel on the other side to ask the juror direct questions, not to propound propositions.

Judge Stuart wanted the counsel on the other side to ask the juror direct questions, not to propound propositions.

The Court—I think both the gentlemen have induged pretty freely in this regard, and in addressing an intelligent man I think it objectionable.

Judge Stuart then proceeded to address the triers on

The Question of Impressions,
and contended that a man holding an impression either one way or the other should be properly disqualified from serving.

Assistant District Attorney Fallows replied to the argument of the delence. He said an impression cannot disquality a man from serving impartially. He said that a mere impression received on the mind from perusing an account of a tragedy like the Putnam murder in the newspapers was as transient on the mind as the fitting of a cloud across the sum. It passed away and left the mind in its normal state, unblassed any without prejudice. He quoted from "Coleman's Criminal Law" to show precedents for men, while having entertained impressions serving on juries. He argued that even if a juror had been told that Foster killed Putnam, or if he knew it, that man would be entirely competent to sit in judgment. He might just as impartially act as if he was in total ignorance of the matter. Knowing that Foster killed Putnam, might not that juror find as readily, if the evidence warranted it, that the killing was justifiable? He continued at some length.

The Court charged that it was for the triers to judge whether the juror's mind was in that state of disinterestedness that would warrant his being permitted to serve or not. They, the triers, should weigh carefully the Propositions appears and the puror's fitness and we think the prisoner should have that doubt. We, therefore, find the juror not qualified.

The court charged that he re in doubt about the juror's fitness and we think the prisoner should have that doubt. We, therefore, find the juror not qualified.

and decaide as the evidence warranted.

Tiers—We find that we are in doubt about the juror's finess and we think the prisoner should have that doubt. We, therefore, find the juror not qualified. After this one after another was rejected to the number of six.

Abraham Demorest, of 142 West Thirtieth street, was rejected by the Court, having expressed an opinion. He "stepp d aside."

Mr. Isaac Friedberger, of 184 West street, did not have any opinion in the matter of the murder; had no impression even; was not acquainted with either the prisoner or his friends, nor had he been acquainted with the deceased or his friends; had no conscientious scrupies about hanging a man. Notwithstanding all this he was set aside under the peremptory rule.

CAPITAL FUNISHMENT.

It had been the practice of the prosecution up to this time to ask the proposed juror if he was opposed to the infliction of capital punishment when the evidence would warrant a verdict of the first degree of murder, This was usually asked after the juror had stated that he had expressed an opinion. Mr. Bartiett, associate counsel for the defence, objected to the asking of such question after the juror had proved himself unfit by reason of his having an opinion. He could not see

THE OBJECT OF THE QUE 'Y.

If it was to give the jury the impression that most persons favored the infliction of capital punishment, the defence would be justified in producing and reading the State documents of Michigan, showing that the most beneficial results had been obtained in that State by the abolition of the death pennalty.

The Court—I do not think such was the object of the District Attorney in asking the question of the Proposed juror. I am rather of the opinion that it was to gain time that the question was put.

Mr. Bartlett demurred to this; but it was finally satisfactorily settled that the object in the putting of the interrogation was as stated by the Court.

Julius Bandman had conscientions crupies as regarded the propriety of resorting to the death penalty. His

THE GENTLEMAN WHO HAD BEEN SWORN BY MISTAKE. he having answered to another man's name yesterday, was here called, and stepped upon the stand to be again questioned and cross-examined on the different phases of an opinion Fram the newspaper accounts he had perused and the conversations he had heard he had received an impression, but a net sufficiently strong one to warrant his calling it an opinion; nothing had occurred to dispet that impression; it would, in fact, require some evidence to remove that impression.

Judge Garvin—Do you suppose that you could sit on that jury and render a decision impartially in this case?

Judge Garvin—Do you suppose that you could sit on that jury and render a decision impartially in this case?

Judge Sinart—I do now decidedly object to my friend sitting there and propounding propositions. I demand that he desist hereafter from pursuing this line of examination, and I mean to stick to what I say.

The Court—I think the District Attorney had better change the form of the question. I think it would be desirable.

The question was then put in another form, and the case of the juror was referred to the triers. The juror was decided by, but was set aside by the peremptory challenge.

It was now one o'clock, and
NO JUROR HAD BERN OBTAINED UP TO THIS TIME, and with very little prospect of getting any called.

Mr. Gilman Collamore was asked by the District Attorney if he had any bias against the prisoner from the accounts he had read and heard of the murder.

Judge Straft again objected. He said that was an

from the accounts be had read and heard of the murder.

Judge Stuart again objected. He said that was an improper way of putting the question. It should be put in this wise:—Has the juror any bias for or against the party accused of the crime, or has the juror any bias either for or against the guilt or innocence of the accused—and not has he any bias against the prisoner.

The Court ruled that on the challenge for favor the District Attorney had a right to ask any question bearing on the case in any form he preferred.

Counsel took an exception.

After the rejection of several more jurors a recess was taken at ten minutes past one o'clock, and the crowd in court took advantage of it to go forth and stretch their cramped limes.

After the recess the call of jurors was proceeded with.

Charles Hudson, on being called, stated volun-

At the the recess the can of jurofs was proceeded with.

Charles Hudson, on being called, stated voluntarily that he had an acquaintance of twenty years with the prisoner's father.

That circumstance was no legal bar to his serving, but he had also formed an opinion in the matter. He was excused.

At this time, as one after the other, to the number of fifteen or twenty, were each rejected for entertaining decided commission for other equally impor-

THE PUTNAM TRACEDY.

tant reasons, it began to be evident that no jury would be had. It was half-past two o'clock, and not one juror had been sworn in. "Andrew Jackson" was called; but, as in the case of the illustrious Edwin Booth and Augustin Daly, called yesterday, not a voice was raised in response. In lieu of that, however, a universal giggle was heard as the cierk again repeated Andrew Jackson.

Mr. Walter F. Bartiett, manuacturer of corsets, of West Broadway, was satisfactory and took the oath, and was the first juror obtained.

Simon Kleaber, of 301 West Twenty-sixth street, was next sworn in as juror, after having answered all questions in a satisfactory manner.

Charles P. Clayton, engraver, of 77 West Eleventh street, was set aside under peremptory challenge, after he had been decided an impartial juror by the triers.

riers.

Judge Stuart, at five o'clock, asked the Court to adjourn, as seven hours had been employed in endeavors to get a jury and he feit rather fatigued. The Court then adjourned until half-past ten o'clock this morning. Witnesses and others were instructed to be in attendance at that hour. The jury will pass the night at the Astor House.

THE DIAMOND SMUGGLING CASE.

Most Extraordinary Developments - Colonel Whitley, Chief of the Secret Service, Selling Diamonds to His Operatives.

The further hearing of the case of the United States vs. H. C. Justice, who is charged with con-spiring to smuggle diamonds into this country from England, was resumed yesterday before Commis-Mr. W. F. Kintzing appeared as counsel for the

defendant and Mr. De Kay for the government.

The facts elicited in the examination of yesterday are of a most extraordinary character, and if all that has been said is true there can be no doubt whatever that the Secret Service Department in the city of New York is in a most unsound and rot-

TESTIMONY FOR THE DEPENCE The first witness examined for the defence was A. C. Beatty, a private detective. He testified as follows:—I am a private detective; was formerly in the employment of the Secret Service; up to the 12th of last month; I know Coionel Whitley; was under him for one year; I remember the arrest of H. C. Radeliffe, who was arrested for smuggling diamonds; I did not act with Colonel Whitley in the arrest of Radcliffe; I was present at an interview in Bleecker street between Colonel Whitley, Mr. Justice and Mr. Esmond; there was a conversation about who was the informer.

Objected to by counsel for government.

Counsel for the defendant said he wanted to prove that Whitley was the chief master conspirator in this matter, and that Whitley told both Esmond

prove that Whitiey was the chief master conspirator in this matter, and that Whitiey told both Esmond and Justice that they were the informers, though Justice disclaimed all intention of claiming the informer's "moiety."

The Commissioner—State, if there was any conversation, when and where it was.

Witness—After Raddlife was arrested I heard a conversation between Colonel Whitiey and Justice, at Whitiey's office, 57 Bisecker street; I heard Colonel Whitiey say to Justice that it was a very self Job and that they ought to make a great deal of money out of it, and that they had not the least doubt they would get \$100,000 worth of diamonds out of it, Justice said he hoped they would, if they could only keep Esmond quiet; Whitiey said Esmond was very nervous, and would make

A BAD WITNIESS;

he sent me on several occasions to keep Esmond quiet; I heard Whitiey say that "they" should have the motety, meaning Justice and Esmond; that it would be a good, big heap; I purchased

BROHT DIAMONDS

from Colonel Whitley about three weeks after the arrest of Radcliffe and the seizure of the diamonds; I have five of them now in my shirt, bosom; the remaining three are in a ring that my wife has; I have five of them now in my shirt, bosom; the remaining three are in a ring that my wife has; I have five of them now in my shirt, bosom; the remaining three are in a ring that my wife has; I paid Colonel Whitley \$85 85 for the eight diamonds, I do not know the value of the diamonds; a dealer told me that the whole eight were worth sixty-five dollars in gold; Whitley, at the time he sold me those diamonds, said they were some of

EADCLIFFE'S DIAMONDS;

Colonel Whitley had at that time other diamonds

Colonel Whitley had at that time other diamond his possession.

Mr. Kintzing said Radcinte had stated in his evidence that all his diamonds had been returned to him on the payment to the government of \$4,500; yet now it appeared that Whitley had been seiling those diamonds and

who had been previously examined here as a with ness for the government, had purchased some of them. them.

Mr. De Kay—There is no proof whatever of that,
Mr. Kintzing—I am going to give it now.

Witness—At the time I purchased these diamonds from Whitley I saw other diamonds—about fifty—with him; at the same time that he sold me diamonds he also

he also

SOLD DIAMONDS

to Mr. Sullivan, Mr. Newcomb, Mr. Nettleship and
Mr. Butts, all "operatives" in the employment of
Colonel Whitley: Newcomb has some of those diamonds yet; he wanted me to buy them; I bought the

PROM COLONEL WHITLEY,
I think, pending the examination of Radcliffe before
Commissioner Osborn; I met you (Mr. Kintzing) for
the first time to-day accidentally in the street, and
communicated these facts to you; you then sum-

the first time to-day accidentally in the street, and communicated these facts to you; you then summoned me here as a witness.

Cross-examined—I do not know why I left the secret service; I got a letter from Colonel Whitley discharging me; I do not know why I was discharged; I did not hear in the conversation with Whitley anything about diamonds that Radeliffe had which were not simagled; I did not hear from Whitley when I bought the diamonds that they had come from a pawnbroker's.

To counsel for defendant—When I was discharged other operatures were also discharged; they said seven, but I could only see another besides myself.

To the Commissioner—I now say, under oath, that I have no ill-feeling toward Colonel Whitley by reason of my leaving the service.

Mr. De Kay said he would ask an adjournment in order to show how it was that the diamonds stated by the witness to have been sold to him had come into his (Whitley's) possession.

The case was then adjourned to to-morrow at ten o'clock. Colonel Whitley, to whom allusion has been so repeatedly made in the above testimony, is reported to be absent in California, and when he comes back he will douotless give his version of the affair, if the not decided before his return.

Coionel Whitley's detectives who were present during the examination of Justice before Commissioner Osborne, on a charge of aiding Radeliffe to smugglie diamonds, say that Abraham C. Beatty, the witness for the defence, was dismissed from the Secret Service Department for appropriating to his own use a large quantity of wine which he had seized on an Italiau ship lyng in Brooklyn, and also that the diamonds which he and other officers of the department for appropriating to his own use a large quantity of wine which he had seized on an Italiau ship lyng in Brooklyn, and also that the diamonds which he and other officers of the department in a purchased had been pawned by Radeliffe to the service.

CARROTING ON THIRD AVENUE.

On Sunday evening, when the light of day had

barely died out and Third avenue was crowded with

pedestrians, both male and female, a German named Wm. Kleaert, residing at 882 Third avenue was robbed of his watch and chain by garroters.
While the operation was being performed upon him
he was, of course, unable to cry out, but it is beyond comprehension how such a terrible crime could have been committed in such a throughfare without the immediate capture of the thieves following. Such is the fact, however. Mr. Kleaert, it seems,

Such is the fact, however. Mr. Kleaert, it seems, was passing along in a meditative manner. He had been out all day and was then probably on his return home to his "frow," with the expectation of a stormy scene at meeting, when some one put his arm round his peck from behind and squeezed him so unmercifully tight that he got black and blae in the face, and became almost insensible, Another then relieved him of his watch and chain. Before he could call for help the gang, which numbered probably eight, has disappeared. He went directly to the station house and informed Captain Gunner, who sent out officers lambrecht and Clark to search for the thieves. While passing through some by street the officers came across four young men, who live on Third avenue and whose reputation is not of the best. One of them had a bundle under his arm, which fact was rather suspicious to the officers, and they at once arrested two of them, Terrence Relly and John Coffee. The other two made their escape. The bundle contained some ladies' shoet, a couple of coats and a canvas bag; but no watch was found. Yesterday they were arraigned at the Yorkville Police Court, having been identified by Rieaert as the two who were most active in robbing him, and they were committed, in default of bail, for trial. Another of the same gang had also been arrested, but Mr. Rieaert being unable to identify him he was discharged. Captain Gunner has retained the articles found with the prisoners for identification at the Nineteenth precinct station house.

This institution, under the care of the Sisters of

This institution, under the care of the Sisters of charity at No. 3 North Washington square, is sadly in need of funds to meet current expenses. The good Sisters work untiringly to keep the asylum in good condition and give proper care to the miserable waits encrusted to them. Frequent appeals for aid to them have been made through the columns of the Herald, and they have always met with a prompt response. Today another appeal is made, and this evening Dr. Ghislain J. Durant will lecture at Steinway Hall for the benefit of the asylum. He takes as his subject the "Refutation of Propositions against the Establishment of Pounding Asylums," and those who know the gentleman assert that he can and will give an interesting and entertaining discourse.

THE EVANS ABORTION CASE.

Continuation of the Trial of Thomas Lookup Evans-The Defendant on the Stand-Interesting Disclosures-Judge Bedford to Charge the Jury Tc-Day.

The trial of Thomas Lookup Evans, who is charged with producing an abortion upon Ann O'Neill, was continued yesterday in the General Sessions, before ludge Bedford.

The first witness called by the defence was Mary Dickenson, an old woman over sixty, who was the doctor's housekeeper. She said that Ann O'Neill came to 94 Chatham street in the beginning of last February and got a wash for a complaint she had; she subsequently called and the doctor told her she was in the family way; she asked him if he could not give her some relief; he said he cured her of one complaint, but could not cure her of the other; he told her he did not do such things; she said she was very poor, and then he said she might board there for three dollars a week; she came, and soon after commenced to make two suits of baby clothes; the girl O'Nelli told the witness that she had gone to another doctor before she came there; she was hearty and well all the time she was a Dr. Evans'; the witness saw a great many babies born at his place, but never saw a dead baby there, and never heard of a complaint being made against him for abortion before this one. Assistant District Attorney Sullivan cross-examined the old housekeeper at great length, and the answers to his questions gave the jury a well executed photograph of the interior of the Chatham street establishment, where she said a number of ladies came to be treated by the doctor. Mr. Walsh used to help the doctor to make up his medicines, and clerks were employed to do the writing upon

Counsel for the defence became restive during the old housekeeper's examination, and objected re-peatedly to the questions, but Judge Bedford permitted the District Attorney, as it was on cross-ex-

amination, the widest latitude.

Peter B. Walsh, the poctor's assistant, was then examined. He had lived with the doctor between six and seven years; he was absent from the city part of Angust, but when he returned he saw that O'Neill was boarding there, and appeared to be healthy. He also was cross-examined, and said that

O'Neill was boarding there, and appeared to be healthy. He also was cross-examined, and said that Dr. Evans had clerks to write upon circulars and attend to his correspondence; sometimes a good many patients came there and were in the doctor's private consultation room.

EVANS ON THE STAND.

The defendant was then placed on the stand and said:—I am a graduate of the University of Edinburg and of the Royal College of Surgeons in London; have taken out two diplomas and received three gold medals thirty years ago; I nover attempted to procure an abortion upon anybody; I am diametrically opposed to it; any one who would come to my place I would tell them they could retire to the country to a farmhouse and be confined there; about the 20th of July Ann O'Neill came and said she saw my advertisement to cure female weakness; It was very evident she was then six months in the family way: she wanted medicine; I said I never gave medicine to a pregnant woman; she said she had been to a madsane's in St. Mark's place, which she very much regretted, as she gave much money: I applied a caustic solution for an abrasion; I was sick with chilis and fever on the 10th of August, the time Ann O'Neill said the operation was performed; I never had a steel instrument and did not keep abortion drugs; the pilis I gave were made of corn meal flour, glued together with four paste and colored with red ink; Ann O'Neill paid three dollars the first week and did not pay anything else for the next three months's I gave money to my housekeeper to get baby clothes for her; I would not trust Ann O'Neill with a child one hour in her possess ion.

The counsel nere asked the accused if he did not write a number of works, some of the titles of which he read:—"The Complete Triumpis of Enlightenment on the Glorious Porthcoming of Christ's Kingdom;"The Road Made Plain to Fortune for the Million."
The prisoner said yes, and that they showed how to create heaven on earth; how to restore Paradise, increase marriages, babies and ali good things. The Doctor

ellerons and imputent to counsel, and seemed to felgu insanity.

Judge Bedford at this stage called the witness to order and instructed him to confine himself to the questions propounded by counsel, who cross-examined him at great length. The suggestion made by the Court had a wonderful effect upon the prisoner, who suddenly became remarkably quiet, and thereafter maintained a respectful demeanor upon the stand.

The prisoner asserted that after he was arrested a messenger came to the Tombs and told him that if he paid \$10,000 the case would not be prosecuted by the authorities, but he (the witness) did not wish to expose parties' names.

Judge Bedford insisted upon the witness giving the name, whoever it might be, and Evans said it was William Bloodgood, an advertising agent, who brought the message to him from the Coroner's office.

office.

Counsel put two of his client's works in evidence, and said he would argue to the jury that he was insane.

Margaret Kinny swore that Dr. Evans was sick at Jamaica on the 10th of August with a fever; that she knew him eight years and was delivered of a child by him, and he always treated her kindly.

Mary McGuire also testified that Dr. Evans delivered her of a child in Stanton street, and refused to produce an abortion upon her.

This closed the testimony for the defence.

Ann O'Neill was re-examined, and positively denied the prisoner's statement with regard to her.

Mr. Sullivan said he had issued a subpoena for Mr. Bloodgood, but he could not attend till to-morrow (to-day). After his examination respecting the alleged interview between him and Evans, counsel will sum up and the Court will charge the jury.

NEW YORK SPORTSMEN'S STATE CONVEN-TION.

Probable Opening on Monday Next-Fre-

The Utica Observer in speaking of the approaching annual Convention of the Sportsmen of this State, to be held in that city, says:—All the arrangements for the Convention of the New York State Sportsmen's Association to be held in this city are nearly perfected, and are of a nature to give satisfaction to the many enthusiasts of the gun and satisfaction to the many enthusiasts of the gun and rod who are expected to participate in the giorious sports, and to contend in the friendly emulation for the prizes offered. Those prizes, we understand, will excel in value and beauty of design any ever before offered.

THE OPENING EXERCISES.

The day for opening the Convention will be officially announced as soon as the birds arrive at Burfalo.

The day for opening the Convention will be officially announced as soon as the birds arrive at Bunalo.

Should nothing unforeseen occur, however, the Convention will open on Monday evening, the 21st inst., at eight o'clock, in the rooms of the Central New York Sportsmen's Club, with appropriate exercises, not omitting a bounteous collation.

TUE-5DAY.

The first day's exercises, on Tuesday, will probably consist in fly casting, salmon fly casting and bass casting.

The rife shooting at long distance, with and without telescopes, and on-hand shooting will follow the fly casting.

The State trap shoot will take place at two P. M. Only members of organized clubs and county delegates will be permitted to shoot at this match. Two delegates are allowed from counties where there are no organized clubs.

WEDNESDAY.

Pistol shooting at line A. M. In the first class dueiling rules will be observed. In the second class parties may shoot any single parrel not over twelve inches, without rests and held with one hand.

Single trap shooting at ten A. M.

A cutzens' shoot, for a prize offered by the citizens of Utica, open to all who have never shot at birds from a trap, will follow.

The members of the association and their friends will be entertained every evening at the Central New York Sportsmen's Club rooms, in the Tibblit's Block. The gentlemen of the Utica Club have also extended the hospitalities of their club house to the delegates.

extended the hospitalities of their club house to the delegates.

We inderstand that there will be four classes of prizes in almost every contest.

It will be a glorious week for the sportsmen of New York State.

A REPENTANT PUGILISTIC PE WHOLDER.

BRIDGEPORT, Conn., May 16, 1871.

BRIDGEPORT, Conh., May 10, 18/1.

To the Editor of the Herald:

An article appeared in the Herald of to-day in which reference is made to a "prominent pewholder" as having a difficulty with the pastor of St. Augustine's church, in which blows were exchanged. I am that pewholder, and bog to state changed. I am that pewholder, and beg to state that that is entirely false, as no blows were either given or attempted. The pastor informed me that at the extra morning service all were expected to pay ten cents, and jewnolders were only entitled to tree seats at the regular service. Being very much oxcited I said many things which were alguare and wrong to the dergyman, which nobody regrets more than myself, and for which I am perfectly willing to make a proper apology. Do me the justice of inserting this in your paper. Thomas Galiny.